APPENDIX A

Indiana Statute on Claims for Benefits

ARTICLE XVIII—CLAIMS FOR BENEFITS

52-1542 IC 22-4-17-1. Regulations prescribed by the board.—Claims for benefits shall be made in accordance with such regulations as the board may prescribe:

* * * * * * *

IC 22-4-17-2

52-1542a. Examination and determination of claims—Notice to claimant and employer—Request of hearing before referee—Authority of deputy—Determination revised upon obvious error.—(a) When an individual files an initial claim **the division shall promptly make a determination of his status as an insured worker**, in a form prescribed by the board. A written notice of the determination of insured status shall be furnished him promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to him for insured work by each employer during his base period and shall include a finding as to whether such wages meet the requirements for him to be an insured worker, and, if so, the week ending date of the first week of his benefit period, his weekly benefit amount, and the maximum amount of benefits that may be paid to him for weeks of unemployment in his benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten [10] days after such determination was mailed to his last known address, or otherwise delivered to him, asks a hearing thereon before a referee, such determination shall be fined [sic.] and benefits shall be paid or denied in accordance therewith.

(b) The division shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of his benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of his base period and the week ending date of the first week of his benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimburseable acount in ratio to the earnings of such individual from such employer. Unless the employer within ten [10] days after such notice of benefit liability was mailed to his last known address, or otherwise delivered to him, asks a hearing thereon before a referee, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the division of such facts promptly in accordance with regulations prescribed by the board.

(d) **In addition to** the foregoing **determination of insured status** by the division, the **deputy shall, throughout the benefit period determine the claimant's eligibility with respect to each week for which he claims** waiting period credit or **benefit rights**, the validity of his claim therefor, and as the case may be the attributability to the employer of the cause for which the claimant left his work, or may refer such claim to a referee, who shall make the initial determination with respect thereto in accordance with the procedure in IC 1971, 22-4-17-3 [§ 52-1542b] hereof.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the division shall promptly

notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of any nonattributability to the employer of the cause for which the claimant left his work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii and Puerto Rico, unless the claimant or such employer within ten [10] days after such notification was mailed to his or its last known address, or otherwise delivered to him or it, asks a hearing before a referee thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii or Puerto Rico, unless such claimant or employer within fifteen [15] days after such notification was mailed to his or its last known address or otherwise delivered to him or it, asks a hearing before a referee thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired the request therefor shall be filed with the board in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. [In the event a hearing is requested by an employer or the division after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing.] Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) No person shall participate on behalf of the division in any case in which he is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the director, or a representative authorized by the director to act in his behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before a referee regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the board in writing within the prescribed periods as above set forth in subsection (c)[e] of this section. [Acts 1947, ch. 208, § 1802, p. 673; 1953, ch. 177, § 22, p. 626; 1955, ch. 317, § 10, p. 971; 1965, ch. 190, § 11, p. 348; 1969, ch. 300, § 5, p. 1256; 1971, P. L. 355, § 42, p. 1376; 1972, P. L. 174, § 2, p. 844.] (Our emphasis.)

Note: The sentence in brackets in (e) above came into the law by an amendment by the Indiana General Assembly in its 1972 session, and effective April 1, 1972. Prior to that date the bracketed sentence reads as follows:

> "In the event that a hearing is requested, the payment of any disputed benefits with respect to the period prior to the final determination or decision shall be made only after such determination or decision."

The change was made in view of the decision of the court in **California Department of Human Resources v. Java**, 402 U.S. 121, 28 L. ed. 2d 666 (1971).

APPENDIX B

Federal Statute

42 USC § 503

§ 503. State laws, provisions required; stopping payments on failure to comply with law

(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due;

* * * * * * *

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied;

* * * * * * *

APPENDIX C

Statutes of Other States

Virtually every state in the nation confines unemployment compensation to weekly benefits, requires that eligibility be determined weekly, and denies benefits to those claimants who have rendered themselves ineligible during the preceding week.

Ala. Code Tit. 26, Secs. 208, 213-14 (Suppl. 1969);

Alaska Stat., Secs. 23.20.340, 23.20.380, 23.20.350 (1962);

Ariz. Rev. Stat. Ann., Secs. 23-7718-776 (Supp. 1972);

Ark. Stat. Ann., Secs 81-1104 and 81-1106 (Supp. 1971);

Cal. Unempl. Ins. Code, Secs. 1253 and 1257 (West Supp. 1972);

Colo. Rev. Stat. Ann., Secs. 82-4-2 and 82-4-7 (Perm. Cum. Supp. 1969);

Conn. Gen. Stat. Ann., Secs. 31-228, 31-235, 31-236 (Supp. 1972-1973);

Del. Code Ann. Tit. 19, Secs. 3313-15 (Cum. Supp. Pamphlet 1970);

Fla. Stat. Ann., Secs. 443.04(2), 443.05(3), 443.06(2) (Supp. 1972-1973);

Ga. Code Ann., Secs. 54-605, 54-609, 54-610 (Supp. 1971);

Hawaii Rev. Laws, Secs. 383-23, 383-29(3), 383-30(3) (Supp. 1971);

Idaho Code Ann., Secs. 72-1312, 72-1366 (Supp. 1969);

Ill. Ann. Stat. Ch. 48, Secs. 401, 420, 433 (Smith-Hurd Supp. 1972);

Iowa Code, Secs. 96.3 to 96.5 (Supp. 1971);

Kan. Stat. Ann., Secs. 44-704 to 44-706 (Supp. 1971);

Ky. Rev. Stat., Secs. 341.350, 341.370, 341.380 (Supp. 1972);

La. Rev. Stat., Secs. 1592, 1600, 1601 (Supp. 1972);
Me. Rev. Stat. Ann., Secs. 1191 to 1193 (Supp. 1971);
Md. Ann. Code Art. 95A, Secs. 3, 4(c), 6(d) (Supp. 1971);
Mass. Gen. Laws ch. 151A, Secs. 23, 24(b), 25(c) (Supp. 1971);
Mich. Comp. Laws, Secs. 27, 28(c), 29(c) (Supp. 1971);
Minn. Stat., Secs. 268.07 to 268.09 (Supp. 1971);
Miss. Code Ann., Secs. 7374, 7378, 7379 (Supp. 1971);
Mo. Rev. Stat., Secs. 288.038, 288.040, 288.050 (Supp. 1972);
Mont. Rev. Codes Ann., Secs. 87-103, 87-105, 87-106 (Supp. 1971);
Neb. Rev. Stat. Secs. 48-624, 48-627, 48-628 (Supp. 1972);
Nev. Rev. Stat., Secs. 612.340, 612.375, 612.390 (Supp. 1971);
N.H. Rev. Stat. Ann., Secs. 282.2 to 282.4 (Supp. 1971);
N.J. Rev. Stat., Secs. 43:21-3 to 43:21-5 (Supp. 1971);
N.M. Stat. Ann., Secs. 59-9-3 to 59-9-5 (Supp. 1972);
N.Y. Labor Law, Secs. 590, 591.2, 593.2 (McKinney Supp. 1971);
N.C. Gen. Stat., Secs. 96-12 to 96-14 (Supp. 1971);
N.D. Cent. Code, Secs. 52-06-01, 52-06-02, 52-06-04 (Supp. 1971);
Ohio Rev. Code, Secs. 4141.29, 4141.30 (Supp. 1971);
Okl. Stat. Tit. 40, Secs. 213 to 215 (Supp. 1971);
Ore. Rev. Stat., Secs. 657.150, 657.155, 657.176 (Supp. 1971);
Pa. Stat., Secs. 401, 402, 404 (Supp. 1971);
R.I. Gen. Laws Ann., Secs. 28-44-6, 28-44-12, 28-44-20 (1970);
S.C. Code Ann., Secs. 68-104, 68-113, 68-114 (Supp. 1971);
S.D. Compiled Laws Ann., Secs. 61-6-1, 61-6-2, 61-6-15 (Supp. 1971);

Tenn. Code Ann., Secs. 50-1322 to 50-1324 (Supp. 1972);
Tex. Rev. Civ. Stat. Ann. Arts. 5221b-1 to 3 (1971);
Utah Code Ann., Secs. 34-4-3, to 35-4-5 (Supp. 1971);
Vt. Stat. Ann., Secs. 1338, 1343, 1344 (Supp. 1971);
Va. Code Ann., Secs. 60.1-48, 60.1-52, 60.1-58 (Supp. 1972);
Wash. Rev. Code, Secs. 50.20.120, 50.20.010, 50.20.080 (1970);
W. Va. Code Ann. Secs. 21A-6-1, -3, -10 (Supp. 1972);
Wis. Stat., Secs. 108.04 to 108.05 (1967);
Wyo. Stat. Ann., Secs. 27-24 to 27-26 (Supp. 1971).

APPENDIX D

. . . . . .

Excerpts from the Legislative History of the Social Security Act

The purpose of the Social Security Act is clear from its legislative history. The unemployment portions of it were designed to assist those involuntarily unemployed for a limited period during which they actively sought employment. The system was to be a state system with wide discretion left to the states.

The report of the Committee on Finance on the Social Security Bill to the United States Senate, on May 20, 1935, made abundantly clear the purpose of the Act:

> "The essential idea in unemployment compensation is the creation of reserves during periods of employment from which compensation is paid to workmen who lose their positions when employment slackens and who cannot find other work. Unemployment compensation differs from relief in that payments are made as a matter of right, not on a needs basis, **but only while the worker is involuntarily unemployed.** In all compensation systems the period during which compensation is payable is limited in some relation to the previous period of employment. Invariably there is a waiting period immediately following unemployment during which no compensation is payable. Thereafter compensation is paid as a stated percentage of the previous wage, customarily with both a minimum and a maximum rate. **Payment of compensation is conditioned upon continued involuntary unemployment. Beneficiaries must accept suitable employment offered them or they lose their right to compensation.** After a specified

period of time the compensation is discontinued in any event. (Our emphasis.)

. . . . . .

"This bill does not set up a Federal unemployment compensation system. What it seeks to do is merely to make it possible for the States to establish unemployment compensation systems and to stimulate them to do so.

. . . . . .

"Except for a few standards which are necessary to render certain that the State unemployment compensation laws are genuine unemployment compensation acts and not merely relief measures, **the States are left free to set up any unemployment compensation system they wish, without dictation from Washington.** (Our emphasis.)

. . . . . .

. . . "In accordance with the entire spirit of the Social Security Act, we believe that the Federal Government should not attempt to dictate to the States which type of unemployment compensation law they should adopt."

Report No. 628, United States Senate Accompanying H.R. 7260, 74th Congress, 1st Session.

The report of the Committee on Ways and Means on H.R. 7260 to the House on April 5, 1935, is to the same effect:

"The essential idea in unemployment compensation, more commonly but less accurately called 'unemployment insurance' is the accumulation of reserves in times of employment from which partial compensation may be paid to workers who become unemployed and **are unable to find other work.** Un-

employment insurance cannot give complete and unlimited compensation to all who are unemployed. Any attempt to make it do so confuses unemployment insurance with relief, which it is designed to replace in large part. It can give compensation only for a limited period and for a percentage of the wage loss. (Our emphasis.)

. . . . . .

"**The bill permits the States wide discretion with respect to the unemployment compensation laws they may wish to enact.**" (Our emphasis.)

Report No. 615, House of Representatives Accompanying H.R. 7260, 74th Congress, 1st Session.

Prior to the above reports on H.R. 7260, the Finance Committee of the United States Senate had received the Report of the Advisory Council to the Committee on Economic Security, dated December 18, 1934, which dealt in part with the subject of unemployment compensation. Pertinent portions of this report are:

"The States for their part must assume responsibility for State administration. Unemployment compensation benefits must necessarily be locally administered and no large bureaucracy in Washington need be created if this principle is observed. Subject to necessary minimum standards prescribed in the Federal law, wide latitude should be allowed the States to experiment with respect to the particular form and provisions of the unemployment compensation laws which they may enact."

The report recommended what the state laws should contain as to types of unemployment to be benefited and not to be benefited, and eligibility requirements:

"A. **Types of unemployment benefited.**—(1) Total loss of weekly wages caused by lack of work, or par-

tial loss of weekly wages caused by lack of work amounting over a 4-week period to an average of more than 50 percent of the normal full-time weekly earnings.

"(2) Unemployment occurring in the regular work season of the year in trades in which regularly recurrent periods of slackness occur (the uncompensated slack periods to be designated by the competent administrative agency).

"B. **Types of unemployment not benefited.**—(1) Unemployment of persons directly engaged in trade disputes for duration of dispute.

"(2) Unemployment caused by discharge for proved misconduct.

"(3) Voluntary quit without reasonable cause may be uncompensated entirely or for such period as the plan may designate.

"(4) Unemployment during which workmen's compensation or other compulsory cash benefits are received.

"C. **Eligibility.**—1. Fulfillment of the following qualifying periods:

"(a) Employment of not less than 40 weeks in 24 months preceding claim.

"(b) Employment not less than 10 weeks after maximum duration of benefits in a 12-month period is drawn.

"2. Registration at public-employment office or other designated place and at times stated.

"3. Able to work and available for work.

"4. Unable to find suitable employment."